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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,916	02/11/2004	Olaf Werner	588.1013	3061
23280	7590	06/01/2005	EXAMINER	
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			WRIGHT, DIRK	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,916

Applicant(s)

WERNER ET AL.

Examiner

Dirk Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02112004</u> . | 6) <input type="checkbox"/> Other: ____ |

Claims Rejected

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe '481 or Roder '599 or Wakiya '494 or Adachi '072. In claim 1, the phrase:

“regulating the clutch via a differential speed between a clutch input speed and a clutch output speed, the differential speed being a control variable for modulating a clutch torque...”

is redundant because of the linear relationship between a clutch's differential speed and the amount of torque it transmits, therefore merely regulating the differential speed is the same thing as regulating the clutch torque. Watanabe, Roder, Wakiya, and Adachi all show regulating a clutch differential speed as a function of engine throttle and/or engine torque.

The examiner takes Official Notice that any claimed subject matter that is not specifically addressed in the rejection of the claims is old and well known to those of ordinary skill in this art. See MPEP 2144.03

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Segawa '483. In claim 1, the phrase:

“regulating the clutch via a differential speed between a clutch input speed and a

clutch output speed, the differential speed being a control variable for modulating a clutch torque...”

is redundant because of the linear relationship between a clutch's differential speed and the amount of torque it transmits, therefore merely regulating the differential speed is the same thing as regulating the clutch torque. Segawa shows regulating a clutch differential speed as a function of engine throttle and/or engine torque.

The examiner takes Official Notice that any claimed subject matter that is not specifically addressed in the rejection of the claims is old and well known to those of ordinary skill in this art. See MPEP 2144.03.

Claims Objected

Claims 4-10 are objected to because they depend from a rejected independent claim but contain allowable subject matter. The claims would be allowable if they were written into independent form including all of the limitations of the independent claim and any intervening claims. The subject matter is allowable because the prior art does not anticipate nor render obvious the claimed combination as recited in claim 1 with the addition features of: wherein an instantaneous engine torque desired by a driver is determined from a position of the accelerator pedal and an instantaneous operating state of the engine so as to define a desired torque, and the desired torque is used as the control variable for the clutch to regulate clutch slip so that the transmissible clutch torque is adjusted to the desired torque and modulated accordingly and wherein the instantaneous engine torque is regulated so that the clutch slip corresponding to the instantaneous operating state of the engine is set at the clutch, the clutch slip being kept constant; or: wherein the transmissible clutch torque is reduced by an adjustable fixed amount or by an

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adjustable factor with respect to a torque desired by the driver in an instantaneous operating state of the engine; or: wherein the engine torque is reduced via rapid short-term modification of an ignition angle, and a slip speed of the clutch is thus regulated to reduce the transmitted clutch torque.

Prior Art Discussed

The examiner has considered the references cited by applicant in his Information Disclosure Statement filed concurrently with the application. None of the references show all of the features of the claimed invention.

The references cited by the examiner are deemed pertinent to applicant's disclosure. They all show regulating a clutch slip, or differential, speed.

Conclusion

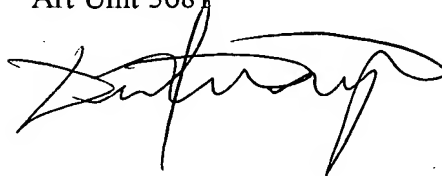
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dirk Wright whose telephone number is 571-272-7098. The examiner can normally be reached on Monday through Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dirk Wright
Primary Examiner
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A handwritten signature in black ink, appearing to read 'Dirk Wright', is written over the printed name and title.

DW
Friday, May 27, 2005